

Note: This sample is intended for information only and should not be considered legal advice.

[Model College Letterhead]

Internal Documentation of the Decision to Early
Implement the Rescission of the Gainful Employment Rule

Effective Date: [July 1, 2019]

On July 1, 2019, the U.S. Department of Education published a new gainful employment (GE) rule in the Federal Register (the “2019 GE Rule”).¹ The 2019 GE Rule rescinds the existing GE regulation, which was promulgated on October 31, 2014, and is located at 34 C.F.R. Part 668, Subpart Q and Subpart R (the “2014 GE Rule”).

The 2014 GE Rule remains in effect until July 1, 2020, the date upon which the 2019 GE Rule becomes effective. However, as detailed in the preamble to the 2019 GE Rule, the Department designated the 2019 GE Rule for early implementation “beginning on July 1, 2019, at the discretion of each institution.”²

Congress granted the Department the authority to designate a regulation for early implementation, and to specify under what conditions, if any, an institution may early implement.³ In its *GE Electronic Announcement #122 – Early Implementation of the Rescission of the Gainful Employment Rule*, which was posted on Friday, June 28, 2019, the Department stated:

An institution that early implements the rescission must document its early implementation internally. It does not have to publish its decision to do so; however, it must make such documentation available upon request by the Department.⁴

The Department placed no further conditions upon institutions desiring to early implement the 2019 GE Rule.

The purpose of this document is to formally record the decision of [Southwest University at El Paso (OPE ID 04131700)] to early implement the rescission of the 2014 GE Rule, consistent with the 2019 GE Rule and *GE Electronic Announcement #122*. This decision is effective as of the date set forth above.

[printed name of president/chancellor/chief executive officer]

[title]

¹ See 84 FR 31392 (July 1, 2019); available online at <https://www.federalregister.gov/documents/2019/07/01/2019-13703/program-integrity-gainful-employment>.

² 84 FR 31396 (July 1, 2019).

³ See Section 482(c)(2) of the Higher Education Act of 1965, as amended (20 U.S.C. § 1089(c)(2)).

⁴ Available online at

<https://ifap.ed.gov/eannouncements/062819GEAnnounce122EarlyImplpfRescissionGERule.html>.